

of this witness be suspended and that he remain within the jurisdiction of the court.

"These letters are desired as cross-examination upon what?" inquired Mr. Delmas sharply.

"I desire to get at the facts whether this defendant is crazy or not," replied Mr. Jerome impatiently.

"I have not the slightest objection to this witness producing every letter Harry Thaw ever wrote," responded Mr. Delmas, "but I do object, if your Honor please, to a cross-examination that is not a cross-examination. I have not asked this witness as to his opinion whether this defendant is crazy or not."

The court inclined to Mr. Jerome's view. It was agreed that Mr. Lyons should send the letters to Court Clerk Penney.

Lawyer Gleason a Witness.

Lawyer John B. Gleason of Thaw's counsel took the stand. He identified the envelope containing the will and said that he first saw it on December 1, 1899. He examined it and swore that it was in the same condition as when he first saw it, save for the addition of some marks made in it in court for purposes of identification. Mr. Gleason did not entirely escape the pitfalls that the feet of laymen in court sometimes wander into. He was asked to answer a question in some detail when he was headed off by Mr. Delmas with a laconic:

"You may answer that question yes or no."

Mr. Jerome wanted to know some things about the interrelations made in long hand between certain paragraphs of the type-written will. Mr. Gleason testified that most of them were in the handwriting of Harry K. Thaw. One or two others he thought were in the handwriting of Mr. Delmas, the Pittsburgh lawyer who drew the testament.

The initials "H. K. T." appear frequently by way of signing this interlined addition to the original will. Evelyn Nesbit Thaw identified most of them as written by her husband, but declared that she thought one of them was not in his hand. Mr. Gleason did not agree with her. He thought they were all written by the defendant.

Evelyn Nesbit Thaw Recalled.

This fine, tall, blonde-haired woman began to tell her renewed interest in what went on at the trial. Evelyn Nesbit Thaw was once more called to the stand. She was dressed precisely as in her previous appearance in the witness chair, still wearing the same beautiful gown of blue, the same schoolbag, but, for some reason, she had changed her color and bow of black lawn. She looked, if anything, a trifle paler than before, but her answers to questions were made in the same clear, ringing tones. She was touched with just the suggestion of a lip. Mr. Delmas turned her memory once more to the night when she and Harry Thaw and Truxton and Thomas McGowan, who were at the Café Martin when the shooting of Stanford White and his son, a few hours before the shooting.

Mr. Delmas testified, again, in your former testimony, that on the evening of the 22nd of June, 1900, and while you were at dinner at the Café Martin, after having called for a pencil you wrote something upon a slip of paper which was put into your husband's hands. You would not recall the words which you wrote, but you would recall the fact that you wrote something upon a slip of paper.

"I am authorized, if your Honor please," said Mr. Delmas, "to call upon the learned District Attorney to kindly produce that note."

"We have an unidentified slip of paper," said Mr. Jerome promptly, "but we do not know whether that is the note referred to or not. We will, however, produce it, and I have not upon that and sweet and Mr. Jerome's change of front since the day when Mr. Delmas called on him publicly to produce the famous note at first puzzled most of the court. It was generally conceded, however, that Mr. Jerome foresaw that the note would ultimately require the note to be produced in any event, and that he might as well yield gracefully."

There was a wait of a few minutes and then Mr. Garvan entered the court room bringing the note. Mr. Delmas handed it to Mr. Thaw and proceeded.

The Famous Note in Evidence.

Q. Will you kindly state whether that is the note that you wrote and handed to your husband upon that occasion? A. Yes, sir, it is.

Mr. Delmas: I offer it in evidence.

Mr. Jerome: No objection. Received in evidence.

The Court: No objection. Have it marked in evidence.

"The paper, gentlemen," said Mr. Delmas, "addressing the jury, reads as follows:

"This was here a minute ago, but went out."

Q. In conversations, madam, between yourself and your husband who was the person designated by the letter B? A. Stanford White.

Q. Stanford White? You have already stated that the word "blackguard," which occurs in these letters, refers to the same person? A. Yes, sir.

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Q. Did you ever hear Mr. Thaw refer to any threat made by Stanford White against his life and to his apprehension of danger to his life at his hands?

Right here Mr. Jerome jumped in with an objection. He could not see the relevancy of this question to the general issue of insanity. Moreover, they were a man's own declarations which it was sought to use in his own defense.

The court said that this testimony was admitted to be based on the rules of evidence governing that plea.

Very well, then, "Taking up the plea of self-defense, the defendant says: 'I was threatened by the deceased; those threats were communicated to me; they created in me a mind such as you have heard of; I went and armed myself in order to be prepared for the emergency, and when at the time of the shooting I witnessed a demonstration on the part of the deceased, I had a right to interpret that demonstration in the light of the threat which I had heard of and made.'"

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Q. Did you ever see a pistol in Mr. Thaw's possession? A. Yes.

Q. When for the first time? A. I do not exactly remember the date. It was in New York and it was after Christmas, 1900.

Q. Do you know whether Mr. Thaw carried that pistol anywhere except when he was in New York? A. No, sir, he did not.

Q. The name of Miss Mary McKenzie has frequently been mentioned in the proceedings. I will ask you how long you have known her? A. Since 1901.

Q. Did you ever state anything to Mr. Thaw with reference to a visit that you made to Miss McKenzie at a time when she was ill in the hospital and when Mr. Stanford White was present? A. Yes.

Mr. Delmas wanted to know what it was, but the District Attorney had no curiosity about that point—not the slightest. He advanced his old arguments against the introduction of cumulative evidence along this line until further proof of Thaw's insanity had been advanced. He insisted that Thaw first proved in such a condition of insanity that stories of this kind, if they had been told to him, would have affected him.

"If your Honor please," said Mr. Delmas, "the defendant under that rule is placed in a most unfortunate position."

## Your Building's Weakest Point

All the offices, halls, stairways and safe. They are supported from below by great steel columns. And your elevators? Are they supported from below, the offices, by steel columns, or do they hang from pillars with nothing under them, nothing to support them? Your elevator should be the strongest point in your building. There is an elevator with great steel columns under it like your office. It is "The Plunger Elevator," which is pushed up by hydraulic power on a steel column that can break like a wire and let the car fall. It is as safe as an office. There is something under it.

STANDARD PLUNGER ELEVATOR COMPANY, 1 Broadway.

He endeavors to prove, or his defenders endeavor to prove, his unsoundness of mind. The only way conceivable to them, by his acts, looks and declarations, he is supported by a series of acts and declarations during a period of years to show that at a particular moment of time he was of sound mind and that he is now of unsound mind. He is told that the series of acts attesting that particular time were indeed a part of his life, and that they were not a part of time, are not admissible for the purpose of establishing the fact that at that particular time he was of sound mind, and that they were not a part of time, are not admissible for the purpose of establishing the fact that at that particular time he was of sound mind.

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factory to Mr. Jerome, who wanted to know whether Mr. Delmas was trying to find out Dr. Wagner's opinion of the condition of Thaw's mind on the night of the shooting or at the time he visited him in the Tomb.

Keeping Him Down to What He Observed.

There was a little dispute between Mr. Delmas and Mr. Jerome, winding up by Mr. Delmas asking Dr. Wagner what he had observed—what he saw the first time he went to the Tomb. Dr. Wagner said:

"On the first visit that I made we talked with Mr. Thaw in a general way. I did not attempt to make a thorough examination, but I observed his actions and his manner. I observed that he was suspicious; that he was reticent about answering my questions; that he was apprehensive and that he stated—"

There he was stopped by Mr. Jerome, who said that he must not repeat any conversations. Neither should he make any deductions from what was said. All that Dr. Wagner could tell was what he had seen Thaw do. Justice Fitzgerald impressed on Dr. Wagner that he was not to repeat conversations, and the witness said:

"Well, I observed that he was fearful that he would be declared insane and sent to an institution for the care and treatment of the insane."

After that Dr. Wagner had difficulty in testifying because he wanted to go into the conversations.

The next visit was on September 19, when Dr. Britton D. Evans went with him. Lawyers Hatridge and Peabody were also there. Dr. Evans tried to say that the visit was pursuant to a conversation, but Mr. Jerome wouldn't have it. In various ways Mr. Delmas tried to get conversations out, but they were not allowed. Justice Fitzgerald said:

"All this is objected to," said Mr. Jerome warmly. "It is an indirect way of trying to work in some declarations made by a defendant, at a time he was claimed to be sane, in his own interests."

He went on to state conversations of physical facts, and there may be some termed verbal facts."

Dr. Wagner then got to the point of saying that he had seen Thaw in the hospital room in the Tomb.

"Mr. Thaw came into the room," Dr. Wagner said, "greeted us and we stated the object of our visit. Before we had time to go any further Mr. Thaw asked Mr. Hatridge—"

"Now, doctor," said Mr. Jerome reprovingly, "after the fact of the shooting, the doctor knows all about the limitations of evidence [Mr. Jerome turned to Justice Fitzgerald] as well as you and I do. He knows he cannot state conversations."

"But," said Mr. Delmas, "submit with great deference, supposing that the form of insanity of a patient."

"I am not supposing," said Justice Fitzgerald curtly, "any declaration of evidence. Doctor, confine yourself to telling what you observed, not what you said to him or what he said to you."

Dr. Delmas, with surprise, asked the doctor's testimony is limited to what he observed with his eyes—that is, merely the physical facts which he saw, that is, that he was not sane."

"I cannot be interrogated every five minutes as to what I cannot understand," said Justice Fitzgerald.

"Then, doctor," said Mr. Delmas, "state in the best way you can what you observed."

"After I had been in the room for about five minutes," said Dr. Wagner, "Mr. Thaw turned on his heel, turned about and left the room abruptly, notwithstanding that we were there as he plainly understood, to examine him."

The last part of the answer was stricken out at Mr. Jerome's request. It was evident from what Dr. Wagner said that Thaw didn't think much of the scheme to examine him.

There was another long discussion as to how Dr. Wagner did go in his testimony. He was again told, and Mr. Delmas was informed of the same thing, that he couldn't go beyond the telling of what he had seen. The declaration of his opinion, his objections and explanations of how far the witness could go. He added:

"I do not want the witness misled, nor do I want the record to show a misapprehension about my objections."

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